

The Harvard Law School Record

VOL. 6 NO. 5

CAMBRIDGE, MASS., TUESDAY, MARCH 16, 1948

PRICE TEN CENTS

NEWS IN BRIEF

NEW OFFICERS

The Legal Aid Bureau announces that Wade Hampton 3L (Harvard '46) has replaced Edward I. Rothschild 3L (Harvard '42), now of the *Law Review*, as treasurer of the Society, and Richard G.



MINTZ



HAMPTON

Mintz 3L (Harvard '43) has replaced Lewis H. Johnson 3L (Chicago '42) as vice president. According to President Walter Robinson 3L, the Bureau has selected Thornton G. Edwards 2L to fill the remaining vacancy in its membership.

FORUM

Responsibility for inefficient government was placed on the electorate by Edward J. Flynn, Democratic national leader of New York, and Robert S. Allen, newspaper and radio commentator, in a discussion on "Boss Politics" at the Harvard Law School Forum last Friday evening in Rindge auditorium.

"No political machine, or organization, if you will," Flynn declared, "can win an election without having the issues and the candidates that will win the voters." Greater activity by the citizenry, especially during the primaries, was pointed out by Flynn as the best opportunity for the electorate to secure good government.

Condemning corruption in government without getting out and voting, Allen agreed, is too typical of the American people. Louis Lyons, curator of the Nieman Foundation, served as moderator.

H. L. S. WALLACE COMMITTEE

Approximately 50 students attended the first meeting of the Harvard Law School Committee for Wallace last Tuesday in Langdell North. After a keynote address by John Ciardi, poet and assistant professor in English at Harvard College, the meeting was devoted to the creation of a permanent organization and the election of officers. Walter Oberer 3L was chosen chairman, Burton Wechsler 2L, vice-chairman, and Irwin Barkan 3L, secretary-treasurer.

LEGAL RESEARCH

The 50 men engaged in the training program in legal writing and research under the guidance of three *Law Review* editors have each completed one memorandum and are currently at work on a second. The plan of work for the term includes three such memos involving legal questions which arise from recent cases of hypothetical situations, and one extensive case note.



LOEFFLER

Robert Loeffler 3L, who is in charge of the program, has established headquarters for the research group in the basement of Gannett House.

ATHLETICS

The Law School and Business School basketball championship playoffs will take place this Saturday, March 20, at Carpenter Hall, Soldiers' Field. George Burditt's Law School All-Stars will meet the B-School club at 7:30 p. m. In a preliminary game at 6:30 p. m., last term's Law School league champions, the Swishers, will clash with the league-leading Busy School quintet.

(Continued on page four)

JUDGE URGES HLSA EXPAND IN INDIANA

Emmert Proposes 'Clearing House' For Material on Statutes

Chief Justice James A. Emmert, LL.B., '23, of the Indiana Supreme Court, speaking before the Harvard Law School Association of Indiana recently, proposed a way in which the organization could render public service to the practitioners, their clients, and the state. In addition to the current local Association program which involves aiding the Law School placement office, contributing \$20,000 for the School's use during the next five years, and scheduling business and social meetings for Indiana alumni, Justice Emmert suggested that the Association constitute itself a clearing house for information about Indiana statutory law. By assisting the legal profession and the legislators in this matter, the Indiana Association could broaden the scope of its usefulness.

Justice Emmert told his audience that the bench found many of the statutory state laws were defective in draftsmanship. He said, however, that his statement was not intended to be a criticism of the General Assembly since regular sessions of this body were limited by the State Constitution to 61 days; in fact he marveled that the legislation had been as free from fault as it was considering the pressure under which it was passed. Nevertheless, he felt that there could be considerable improvement if the local

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CHAFEE OFF TO U. N. MEETING

Professor Is Delegate To Geneva Conference

Professor Zechariah Chafee Jr. and four other members of an American delegation set sail last Friday for the United Nations Conference on Freedom of Information which is to be held in Geneva, Switzerland on March 23. More than 250 delegates, representing all members of the U.N. as well as several members not yet admitted to the U.N., are expected to attend. The conference will be in session from three to five weeks after which Professor Chafee will return to his classes.

This meeting in Switzerland was called by the General Assembly of the U.N. for the purpose of coordinating and facilitating the exchange of information as well as to seek a remedy for the "war of words" now in progress.

"World opinion on freedom of the press may be roughly divided into three viewpoints," Professor Chafee said. "First, there is the American attitude, that the press should be absolutely free from government control, trusting only to the moral responsibility of the newspaper people themselves to maintain appropriate standards. At the opposite end of the scale is the Russian attitude, which stresses entirely the press's responsibility and its maintenance by government restraint. France represents the middle group, anxious to have responsibility without surrendering private enterprise. France is particularly conscious of the danger which lies in the furtherance of the press of bad causes, such as occurred there during the Hitler era."

Professor Chafee is also a member of a special sub-committee which is composed of experts from different nations and operates in an advisory capacity under the U.N. Commission of Human Rights. This sub-committee has been

(Continued on page four)

Student Discusses Legal Bases For Recent Claims Asserted in Antarctica

(On July 16, 1947, the *RECORD* published an analysis by Richard Young of the various territorial claims in the Antarctic. In view of recent developments, it appears that from a standpoint of interest our previous article was too early. With the help of material furnished by Mr. Young, Richard Wolford 3L in the following article discusses the legal bases for the claims recently reasserted.)

The Antarctic Continent, still in the ice age, has long been subjected to national territorial claims. Last month, the President of Chile unveiled a bust of Arturo Prat, Chilean naval hero, on an island in the South Shetland group. The British government accused the Chileans of trespass, and a three-nation controversy was begun between Argentina, Chile, and Great Britain.

The territory involved in the dispute was the Palmer Land Peninsula and its adjacent islands. This peninsula projects from the glacier-covered Antarctic Continent towards South America, from which it is separated by 500 to 1,000 miles of stormy seas. Palmer Land was named after a Yankee seal-trading captain who first sighted it in 1823. (The British contest this, and call it Graham Land, alleging it was first discovered by John Biscoe in 1832. The area has no economic value, except for some sealing and whaling; however, President Videla of Chile has made the assertion that he brought back to Chile with him uranium-bearing rock, gathered after the unveiling of Arturo Prat's bust.)

The real basis for the Palmer Land controversy would seem to lie in the desire of the South American nations to control the route around Cape Horn. This would afford them a strategic naval position if the Panama Canal were to

be destroyed (and indeed, fulfill the prophecy of O'Higgins, the "Father of Chile," that his country would become a leading naval power).

The claims asserted by the contesting parties have a questionable relation to reality. All three nations assert wedge-shaped claims running out from the South Pole, as if the pole were the center of a sliced pie. The British claim is known as the Falkland Island Dependency, first asserted by Royal Letters Patent issued July 21, 1908 (Statutory Rules and Orders, 1908, 1042 effective September 1, 1948). The letters were issued on the basis of numerous exploratory voyages, beginning with that of Captain Cook who circumnavigated the Antarctic in 1772. Unfortunately, the British foreign office stated this claim so broadly that it included a large portion of South America, and it was not until 1917 that the proper geographical limitations were delineated so that the alleged dependency conforms with that

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LAW SCHOOL FORMAL DANCE

The Law School Spring Formal, top social event of the Spring Term, will be held Friday evening, at the Imperial Ballroom of Hotel Statler. Tickets at \$4.20 (including tax) are available at Langdell South and Gannett House. Those attending are assured good music by Marshard, plenty of room for dancing, and tables for all. Table reservations may be made tomorrow through Friday from 1 to 5 p. m. at Gannett House. Arrangements have been made for all those attending the dance to receive a 25 per cent discount on list prices of corsages. Ticket sellers will provide necessary details.

Inflation Note

The National Bank of New Jersey
No. 31385
NEW BRUNSWICK, N.J. Feb. 27 19 48 1:74 2:10
PAY TO THE ORDER OF *Harvard Law School* \$ 20.00
NATIONAL BANK OF N.J. 1000020 AND 00 CTS
TO THE CHASE NATIONAL BANK NEW YORK
J. H. Fisher
CASHIER

If this looks to you like a check for \$1,000,020.00 payable to the Harvard Law School, then you're seeing right. Trouble is, Dean Griswold had to send it back, since the deposit (for which this check was sent) which must accompany an application for admission is only \$20. (University News Office Photo)

POLITICAL SCHOOL ADDS NEW EXPERTS

Several nationally known political action experts have been added to the list of speakers who will address the *New England School of Political Action Techniques* which will be held at Harvard on March 20 and 21. As the *RECORD* explained recently, the school is sponsored by the American Veterans Committee and operates under the management of a student planning board in which Lee Kreindler 2L and Edward Rothman 2L hold important offices.

Among those who have recently agreed to lecture are Daniel Riesner, Secretary of the N. Y. County Republican Committee, Clerk of the N. Y. State Assembly and Chairman of the National Republican Club; Palmer Weber, Director of Research of the C. I. O. Political Action Committee; Earnest A. Johnson, Chairman of the A. F. of L. Massachusetts League for Political Action; Mrs. Arthur G. Rotch, Vice Chairman of the Massachusetts Americans for Democratic Action; Leo Dirrane, Staff Representative of the United Steelworkers of America; and Marjorie Lansing, Director of the Massachusetts Progressive Citizens of America.

SEMINAR ON CIVIL RIGHTS ORGANIZED

By way of experiment in legal education a voluntary seminar course in civil liberties and rights is meeting weekly at Harvard Law School throughout the spring term. Organized by members of the Harvard chapter of the National Lawyers' Guild, the course is open to all students. Its purpose is to provide a practical exposition on the present state of the law protecting the civil rights and liberties of individuals living in the United States. The class now numbers approximately 30 students.

Present officers of the chapter are: Frederick Fisher 3L (Bowdoin '42), president; Dennis Maguire 3L (Harvard '41), vice president; George Spiegel 3L (Amherst '41), secretary; and Albion Fenderson 3L (Univ. of Maine), treasurer.

Among persons consulted in the initial framing of the course were Professor Mark DeWolfe Howe, Professor

(Continued on page three)

HAMMOND, J. STEPS OUT OF \$5 CASE

Case Is Postponed Until Other Judge Can Be Procured

Judge Franklin Tweed Hammond, LL.B. '95, retired Mass. Superior Court Justice, last night notified the Student Board that he was disqualifying himself from sitting in the case of *Poindexter v. Prosser*. Judge Hammond said that he had discussed the case with Professor Prosser and therefore had to disqualify himself.

The student board announced that the hearing which had been set for tonight was indefinitely postponed.

The Board today published the record of the pleadings so far in the now famous case of Student William K. Poindexter v. Professor William L. Prosser.

In his declaration, the plaintiff alleges: (First Count) That in Bills and Notes Class on 13 February 1948 the defendant knowingly, falsely and fraudulently represented, with the intent to deceive the plaintiff, that the defendant had the present intent to use a five dollar bill for the purposes of classroom demonstration and to return said bill; that the plaintiff has been damaged to the extent of the five dollars and five dollars additional for great mental anguish, suffering and embarrassment caused by the ridicule, derision and contempt of approximately 150 classmates and potential members of the plaintiff's intended profession.

(Second Count) That on 13 February 1948 the defendant converted to his own use a five dollar bill belonging to the plaintiff, to the plaintiff's damage of five dollars.

(Third Count) That the defendant did intentionally by his words and actions hold the plaintiff up to derision, contempt and ridicule in front of his class, by reason of which the plaintiff has suffered great mental anguish, embarrassment

(Continued on page four)

MEDICAL AID IS RADIO TOPIC

Speakers To Discuss Federal Health Bills

Government health insurance, subject of two Congressional bills which have yet to be reported out of committee, will be "adjudicated" on the concluding Law School Forum program of the American Broadcasting Company's national network series, "On Trial" this Sunday at 4 p.m. The program is heard locally over radion station WCOP.

Counsel pressing passage of "strong" health insurance legislation will be Edward I. Rothschild, 3L, *Law Review* editor and formerly with Legal Aid. Norman



ROTHSCHILD



COLQUHOUN

Colquhoun, 3L, *Law Review* editor and a supervisor of the Legal Writing Program, will serve as opposing counsel.

Two expert witnesses from the medical profession, who have been active in health legislation programs, will take the stand to express their conflicting views on the extent of government participation in medicine.

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The Harvard Law School Record

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CHANGES OF ADDRESS should be sent to the RECORD office, Austin Hall, Cambridge 38, Massachusetts, at least three weeks in advance to insure prompt delivery.

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Letters to the Editor

To the Editor of the RECORD:

I am writing with respect to the suggestion about omitting Saturday classes during the Summer Term which was made in a recent letter published in the RECORD.

At the beginning of the accelerated program, the Faculty determined that each term was to be a full term. The Summer Term is a summer term, not a summer session. Nevertheless, this coming Summer Term will be the last summer term. It is recognized that most students have been studying law continuously for some time, and that this will be the second summer term for most men, and the third for some.

Accordingly, in planning the summer schedule, I have asked Mr. Bowe to minimize Saturday classes. But it will not be possible to eliminate them. The reason for this is fairly simple. Taking four hours in the morning and four hours in the afternoon, there are only forty available hours in a five day week. But we are planning classes this summer which will occupy seventy-four hours. Of this, twelve hours come from duplicating sections, but this leaves sixty-two hours of non-duplicating work, all third year work. Obviously, there must be some conflicting hours. If we schedule too many conflicts, then there is justifiable complaint that men cannot take the courses they want. In order to make a reasonably effective schedule, therefore, it is going to be necessary to schedule some Saturday classes.

A further difficulty arises with respect to the course in Patent Law. This was provided because a very considerable number of men indicated they wanted it. We have engaged an able and well qualified instructor, but we were able to engage him only because he can be available on Saturday and Monday. Accordingly, it will be necessary to schedule the Patent Law course on those two days.

ERWIN N. GRISWOLD,
Dean.

To the Editor of the RECORD:

Concerning your Public Opinion Poll on the admission of woman students to the Harvard Law School:

If such a poll is to have any weight in future deliberations on the subject, then I am afraid that it will be way off balance because of the indifference of a large segment of the student body to this issue. I had hoped the RECORD might hold an intelligent student discussion of the factors to be considered in the admission of woman students. Perhaps then students might carefully consider the problem before voicing an opinion.

Myself, I am for it. And I have yet to hear some good arguments contra. The three objections I usually hear I list below. And note that even a woman has no trouble in answering them.

1. "Do we want our classes cluttered up with giggling co-eds?"

Yale and Columbia have turned out intelligent woman lawyers for several decades with no apparent harm to either standards or morals. If men, on a graduate level, cannot resist the temptation of women in the classroom, I dispute their ability to receive legal training.

2. "What will happen to our homes if the wife chases torts (or ambulances) instead of junior?"

The question of the woman in society and the dilemma of the career woman cannot be met by Harvard's refusal to admit women. Ultimately it is up to the woman to decide her own life. It is a personal decision that she makes by herself, with her parents or with her husband. But to those who have decided, why should the University refuse the opportunity?

3. "Let's keep Harvard as the last bastion of masculinity."

I repeat no detrimental effect has occurred from the introduction of women in other leading law schools. No one is living in a monosexual world. This cry for segregated schooling has certainly not been heard in the many female visitors in Professor Scott's classes. If the perfumed presence of women was so distracting to reciting men, why the silence? Some have even said the lectures improve!

There is limited opportunity for women in top rate Law Schools, and I fail to see the reasonableness of demanding that Yale or Columbia expand their quotas while Harvard hugs its policy of "No Women Students," nor is it reasonable for Harvard to bar women from its Law School and thus force them to seek possibly inferior training elsewhere.

Perhaps the strongest argument of all is an examination of the success of Harvard Medical School's policy of admitting women. If gals don't faint away before a dissection of a human liver, I see no reason why they should blanch at the socratic dissection of *Pierson v. Post*.

ANTONIA HANDLER CHAYES,
Radcliffe '49.

To the Editor of the RECORD:

Perhaps some of you bright law students could explain to a mere female what happened to equal rights at Harvard Law School. Aren't women entitled to equal educational facilities? I am told that women can get an equal legal education at other schools. But if Harvard Law School is the best, can other schools be equal? Or do I have it all wrong?

MARCIA MARK,
Emerson College.

To the Editor of the RECORD:

Your Gallery portrait of Baker was fine, But your proofreading must have been spotty; As anyone knows, who reads the last line, Baker never says "Scott," he says "Scotty."

RANDOLPH W. McCANDLISH, JR. 3L

To the Editor of the RECORD:

This is to advise you that Cincinnatti is not spelled "Cincinatti" as stated on page 1 of your sheet of March 2, 1948.

As a graduate of Yale Law School I am surprised at the obvious lack of Latin background.

JAMES M. FULTON,
New York, N. Y.

(Error nominus numquam nocet, si de identitate rei constat. 1 Duer, Ins. 171-Ed.)

(Letters should be short, preferably not more than 200 words, and should be signed as evidence of good faith of the writer. Names will be withheld upon request.)

Off the Record

Death and Taxes

No Helvering, no next of kin
Will tussle o'er my pelf.
What I can't take right with me
I'll spend upon myself.

They say shrouds have no pockets
But this, for sure, I know:
Until I've spent what I can't take,
I don't intend to go.

Give me no fancy Griswold schemes,
No fourth dimension trust.
The only way to dodge the tax
Is die completely bust.

I.R.C. 811.

Forum: Shall Women Be Admitted to the Harvard Law School?

A (contra): Who would want to say "I do"
With a babe who made the Law
Review?"

B (pro): The females mightn't look so
dandy
But boyoboy, they'd sure be
handy.

D.D.H.

*It is to be noted that MacKinlay Kantor's famous little story, "The Voice of Bugle Ann," is all about a dog.

"Integration" Blues

Now view the T.D. and despair,
Coming ones lead God knows where
Spend, for 'tis futile to prepare—
Lest Integration strip you bare!

J.S.

Dilemma of Croesus

"Lower the income tax," they say.
And the reason that they give
Is that the rates progress so steep
The rich can't afford to live.

And if you answer to them that
Their mortality's not high,
They'll say taxes are so heavy
That they can't afford to die.

COLLECTOR.

Gallery

ALAN RICHARD MORITZ

Professor of Legal Medicine

Dr. Alan Richard Moritz occupies a unique teaching position. As Frances Glessner Lee Professor of Legal Medicine and head of the Department of Legal Medicine at Harvard Medical School one of his duties is to lecture to medical students on law. Another duty is lecturing to Harvard law students on medicine. To medical students he lectures on law as it affects medicine, elements of malpractice, defenses, duties of doctors as public officials and as witnesses in court. To law students he lectures on the relationship between law and medicine, with emphasis on medical evidence.

It takes a great deal of education to make a professor of legal medicine. Born in Hastings, Nebr., in 1899, Dr. Moritz took his B.S., M.A. and M.D. at the University of Nebraska, the latter in 1923. Five years of post-graduate work followed: one year in Vienna and four years at Western Reserve University. He stayed on at Western Reserve and before leaving to come to Harvard was Associate Professor of Pathology, and Pathologist-in-Charge at the University Hospitals in Cleveland. After two more years of study in Europe he established the Department of Legal Medicine at Harvard Medical School in 1939.

But teaching is only a part of Dr. Moritz's work. Legal Medicine is the application of medical knowledge to the needs of justice, more particularly in the investigation of deaths due to violence or obscure causes. Dr. Moritz is Massachusetts State Pathologist. His department is called in the majority of deaths outside Boston where it is known or suspected that death resulted from a criminal or negligent act. In addition, he and his associate, Dr. Ford, investigate many deaths in the city of Boston through their official connections with the medical examiner's office of Suffolk County. Their greatest satisfaction comes from three types of cases: those where a death is investigated because of obscure causes and unsuspected evidence of homicide is found; those where a death is investigated because of strong suspicions of homicide, and the examiner determines that the suspicion is unfounded; and those where an unsuspected hazard to public health is revealed.

In his work Professor Moritz often finds himself in a field somewhere between medicine and law. The antagonism sometimes present between the two professions he considers unfortunate but understandable.

"There is a basic difference in philosophy between law and medicine," he says. "Medicine is the practice of science without partisanship; the practitioner seeks to demonstrate the truth without regard to its consequences. On the other hand, the attorney usually seeks to unveil not the full truth but only that part of the truth of advantage to his client."

Some understanding by each of the function of the other helps to smoothe out ruffled feelings in court. An experienced medical witness knows that the lawyer is only doing his duty and that the intent of searching questions is not to insult the witness. He understands that the truth in our legal system must be brought out by examination and cross-examination.

The experienced attorney understands the basic difference in approach used by the two professions. He realizes that many questions put to a doctor cannot be answered by a yes or no; that medicine is a far less exact body of knowledge than is commonly supposed; and that it may be difficult or impossible to give reasons for an opinion in such a way as to make them comprehensible to laymen, especially in such an unfamiliar environment as the courtroom. He handles the medical witness accordingly.

The tall, thin doctor is himself a familiar figure in the courts. He has testified as an expert witness in most of the major homicide cases in Massachusetts in the last few years. And he has repeatedly demonstrated what he emphasizes over and over again in his lectures to law students and to law enforcement officials throughout the country: that the very foundation of virtually every homicide case is the medical evidence. Its careful preparation and presentation is of vital importance in the administration of this segment of justice.

HARVEY KARLIN, LL.B. '48

Notes on Recent Cases

CONSTITUTIONAL LAW: SEPARATION OF CHURCH AND STATE.

McCollum v. Board of Education, 8 CCH Sup. Ct. Bull. 807 (March 8, 1948). Mrs. McCollum, a resident and taxpayer of Champaign, Ill., and parent of a child enrolled in the public schools there, brought an action for mandamus against the Champaign Board of Education, asking that the Board be ordered to adopt and enforce rules against the teaching of religious education in the public schools. The situation which impelled her action was a program in which classes in religious education were conducted weekly in public school buildings, under teachers paid by a local council on religious education but under the supervision of the superintendent of schools. Classes were made up of pupils whose parents signed printed cards requesting that their children be permitted to attend. There were separate groups of Protestant, Catholic, and Jewish children. Children who did not choose the religious instruction were not released from public school duties, but pursued secular studies during that time. Mrs. McCollum charged that the program was unconstitutional, since her tax money was used for the religious program and her child was pressured into taking religious instruction by the humiliation he suffered when other children took the religious training.

The Board of Education won out in the Illinois Supreme Court and Mrs. McCollum appealed. *Held: Reversed.* The religious instruction allowed by the Board violated the First Amendment, made applicable to the states by the Fourteenth Amendment. In the words of Mr. Justice Black, "This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment (which) . . . rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere."

Mr. Justice Frankfurter attempted to limit the decision closely to the case before the court, saying, "We need not now attempt to weigh in the Constitutional scale every separate detail or various combination of factors which may establish a valid 'released time' program."

Mr. Justice Jackson concurred in the result, although expressing misgivings concerning the breadth of the language used, which he believed would, in possible future cases, "ban every form of teaching which suggests or recognizes that there is a God. . . . One can hardly respect a system of education that would leave the student wholly ignorant of the currents of religious thought that move the world society. . . ."

Mr. Justice Reed dissented, disagreeing not only with the result in this case but also with the failure to delimit the rule set forth. "I find it difficult to extract from the opinions any conclusion as to what it is in the Champaign plan that is unconstitutional." And, pointing to the large number of "released time" plans now being used, "Devotion to the great principle of religious liberty should not lead us into a rigid interpretation of the constitutional guarantee that conflicts with the accepted habits of our people."

PROPERTY: CONSTRUCTIVE DELIVERY OF GIFT INTER VIVOS.

In re Roosevelt's Will, 73 N.Y.S. 2d 821 (Sup. Ct. 1947). In 1938 President Roosevelt announced a "final plan" for the disposition of his papers—to give them to the federal government to be kept in a memorial library at Hyde Park. From that time forth, both he and the government followed a consistent course of conduct designed to carry out this plan, but many papers remained in his possession at the time of his death. The President's will made no mention of any papers, but several letters and memoranda were found restating his intention to give his papers to the library. Roosevelt's executors asked for a determination of the question whether those papers in his possession at death were part of the estate or were the property of the library. *Held:* The gift of the papers was complete in Roosevelt's lifetime. An unsealed writing can have the force of a deed of gift in New York, and since the intention of the President to complete his gift was clear from his course of conduct, there was sufficient constructive delivery of the papers to constitute a valid gift inter vivos. "Franklin D. Roosevelt, during his lifetime, made a valid and effective gift of all his papers and files, including those in his possession at the time of death, to the United States Government. . . ."

For an effective constructive delivery, the subject matter must be in existence at the time of the gift, and the gift must be made by an instrument in writing. Neither condition was fulfilled in the gift of those papers which came into being after the last memorandum. Considering the strictness with which most courts, including New York, usually view gifts inter vivos, this decision, based on a course of conduct, appears unusually generous to the donee.

Alumni Notes

Alumni are especially invited to forward contributions to this column to the RECORD office, Austin Hall, Cambridge (38), Mass.

The Metropolitan Life Insurance Company of New York has announced the appointments of Churchill Rodgers, LL.B. '26, S.J.D. '28, as general counsel, Walter H. Saunders Jr., LL.B. '29, as associate general counsel, and Roland Maycock, LL.B. '36, as assistant general counsel.

Frederick Fish, LL.B. '27, and John R. Sheneman, LL.B. '42, have become members of the firm of Dow & Symers at 70 Pine Street, New York City.

Matthew W. Goring, LL.B. '29, has become a member of, and Frank L. Hinckley, Jr., LL.B. '44, has become associated with, the firm of Hinckley, Allen, Tillinghast & Wheeler at the Industrial Trust Building, Providence, R. I. LL.B. '31—Carl J. Gilbert has been elected treasurer of the Gillette Safety Razor Company. Prior to his new appointment, he was a member of the Boston firm of Ropes, Gray, Best, Coolidge & Rugg.

Elmer E. Meyers, LL.B. '33, and Emory R. Kyle, LL.B. '35, have become partners in the firm of Smith, Buchanan & Ingersoll at 1025 Union Trust Building, Pittsburgh, Pennsylvania.

LL.B. '34—Joseph C. Kennedy, formerly associated with Milbank, Tweed, Hope & Hadley of New York, has become a member of the firm of Bishop, Mitchell & Burdett, Board of Trade Building, Chicago.

E. Gayle McGuigan, LL.B. '35, and Richard Kilcullen, LL.B. '39, have formed a partnership for the general practice of law at 233 Broadway, New York City.

Walter Freedman, LL.M. '38, and Arnold Levy, LL.B. '35, have formed a partnership for the general practice of law in the Washington Building, Washington, D.C.

LL.B. '40—Alan J. Dimond has opened offices for the general practice of law at 10 State St., Boston.

LL.B. '41—It has been announced that William H. Cook has become a member of the firm of Winters, Foskett, Cook & Tylander, with offices in the Harvey Building, West Palm Beach, Florida.

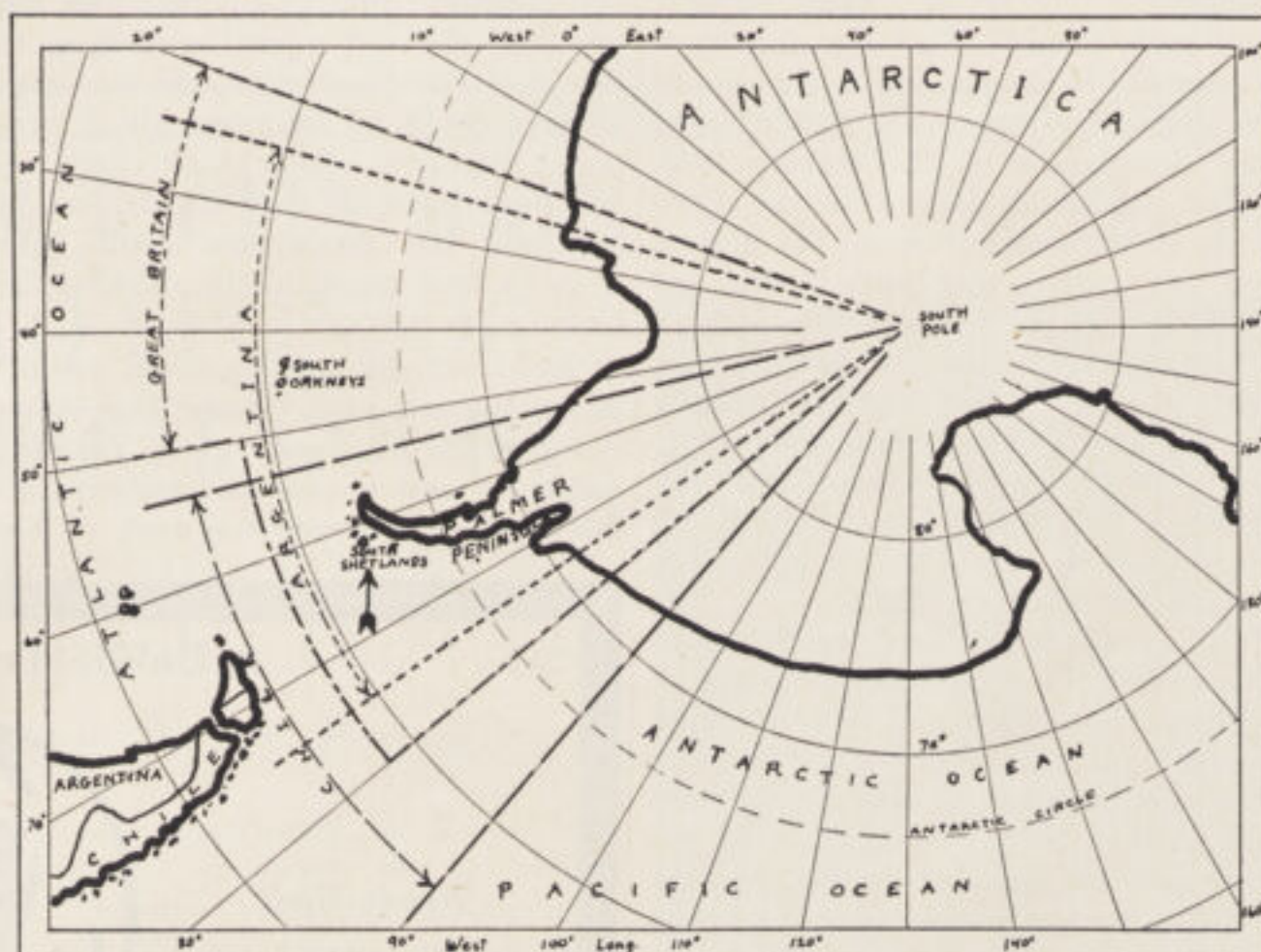
LL.B. '43 (47)—Robert Haydock is with the Office of the Secretary of Defense in Washington.

LL.B. '43 (47)—John B. Lawless is now with the United States Fidelity & Guaranty Company in New York City.

The note concerning the resignation of Herbert S. Marks, LL.B. '32, as general counsel of the Atomic Energy Commission, which appeared in the March 2 issue, inadvertently failed to mention that he has opened offices for the general practice of law at 1200 Eighteenth St., N. W., Washington, D. C.

Bases For Antarctic Claims Discussed

(Continued from page 1)



(RECORD map by Robert Pecosd).

Map of Antarctic area. Arrow points to Palmer Peninsula area and adjacent islands, title to which is currently disputed by Argentina, Chile, and Great Britain. Map also indicates the wedge-shaped sector claims of the disputants. Note that all three claims overlap in the Palmer Peninsula area. Other claims by Britain and other nations to other parts of Antarctica are not shown.

now marked on the accompanying map.

Since the 1917 amended order, the British have enacted administrative acts governing fishing in the area. In 1947 the British were reported to have 30 men stationed in the South Orkney Islands, on Deception and Argentine Islands, and on the Palmer Peninsula itself (N. Y. Times, Feb. 21, 1947).

Chilean claims were officially proclaimed in a Presidential decree November 6, 1940, claiming "all the lands, island, islets, reefs, and pack-ice, now known or which became known . . . between the 53rd and 90th meridians West of Greenwich (Decree No. 1747, 109 Boletín de Leyes y Decretos del Gobierno 2440 (1940)). In 1948, President Videla asked the Chilean Congress to declare the mineral rich lands of Antarctica within the political boundaries of Chile (N. Y. Sun, Feb. 24, 1948). Also during this year, Chile has established two army bases, one on the Palmer Peninsula, the other in the South Shetland Islands, evidently in Discovery Bay, where Prat's statue now stands.

Aside from current activities, Chilean claims are based on grants made in the 16th century by Spain to Chile of all land south of Peru, before anything was known of the Antarctic. A stronger basis for Chile's claims are the activities of Chilean ships in Antarctic waters, and the nearness of the lands to Chile, compared with Great Britain.

Argentina claims the sector between the 25th and the 74th meridians West of Greenwich (Christian Science Monitor,

Feb. 16, 1948). The precise claim has been only vaguely stated by President Peron. The Argentinians base their claims on geographical propinquity and the maintenance of a weather station on Deception Island (N. Y. Times, Feb. 21, 1947). Argentina and Chile mutually recognize each other's right to the disputed territory as against Great Britain, but a glance at the map will show the South American claims conflict with each other as well as with those of the British.

In the event that the disputes should be arbitrated, the principles of applicable international law are well settled. Contrary to popular belief, discovery and exploration afford no title to the discovering nation. Prior to the mid-eighteenth century, discovery was considered sufficient basis for a formal claim to the territory discovered. However, the Antarctic explorer who heaves his national flag into the polar ice, laying claim to the region for his nation, was born two centuries too late. Today, discovery at best gives an inchoate title, which must be completed by effective occupation within a reasonable period. The principle of occupation as a requisite to title is stated in *The Island of Palmas* (Tribunal of the Permanent Court of Arbitration, 1928, Scott, Hague Court Reports (2d Series) 84).

There is, however, one award which might give encouragement to Antarctic claimants. That is the *Clipperton Island Case*, in which France was awarded title to a lonely island off the Mexican coast on the basis of a 10-minute walk by a French naval lieutenant, who later rowed back to his ship, shook the guano off his boots, and read an official proclamation of annexation, which he caused to be printed in a Honolulu newspaper. The Island had been discovered by Spain and claimed by Mexico, but was awarded to France by an Italian arbitration tribunal on the basis of official claim plus occupation as complete as the nature of the territory demanded. (*Clipperton Island Arbitration*, 1931, 26 American Journal of International Law 392, p. 390). The philosophy of this award might support the British contention that the difficulty of living the year around in the Antarctic areas justifies relaxation of the established international rules requiring occupation. However, in the *Clipperton Island Case*, actual occupation plus *animus occupandi* was specifically stated to be necessary. The recent establishment of year-round bases in the Antarctic disproves the theory that the Antarctic is uninhabitable. Hence there would seem to be little likelihood of reaching the result of the *Clipperton Island Case* in the Antarctic controversy.

Another recognized theory of acquisition of title, relied upon by Chile and Argentina, is that of geographical propinquity. However, this principle would seem to be of little weight in the Antarctic disputes, which involve wedge-shaped claims located hundreds of miles from the claimant nations.

The shape of the claims asserted by all the nations is explained by the sector theory. This theory had logical appli-

SEMINAR—(Continued)

Thomas I. Emerson of Yale, and Osmund K. Fraenkel, counsel for the American Civil Liberties Union whose text "Our Civil Liberties" is used for reference reading. Mr. Fraenkel will be here to cover the subject of procedures by which civil liberty issues are properly raised.

The committee in charge is headed by George Spiegel 3L and includes Lloyd H. Reed 3L, Irving Ferman 3L, Bernard Frank 3L and Richard Gyory 3L. Men interested in joining this group should contact Lloyd Reed.

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Calendar

LEGAL WORLD

Law School Spring Formal

The Law School Formal will be held this Friday evening at the Imperial Ballroom of the Hotel Statler. Music will be furnished by Marshard's 12-piece prom orchestra. Tickets are \$4.20 (including tax) and table reservations are available at Gannett House from 1 to 5 p.m.

Book Authorizations

All white authorizations for books and supplies must be returned by this Friday, March 19 to the Book Department, 8 Weld Hall. Unless this is done, payment of bills cannot be made. Exception: books on order or books not yet in book store; in this event books must be transferred to a new authorization.

World Law Group

The next meeting will be held Friday, March 19 at 11 a.m. in Seminar Room 2. Guest speaker will be Prof. Alexander of the Littauer School who will speak on "Cartels." Suggested advance reading: any chapters from Mason, *Controlling International Trade*, or "Cartels" in the *Encyclopedia of Social Sciences*.

Lawyers Guild

Isadore Muchnick, member of the Boston School Committee and a graduate of the Law School, will be guest speaker at the next regular meeting of

the Lawyers Guild this Thursday at 4 p.m. in Langdell North. Mr. Muchnick will speak on *The Lawyer in Local Politics*. Election of officers will also be held.

Harvard Law Wives

Mrs. Benjamin Kaplan, wife of Professor Kaplan of the Harvard Law School, who does sub-titling of movies for foreign distribution for Metro-Goldwyn Mayer, will talk about the movie industry. The meeting is to be held tomorrow at Kendall House at 8 p.m. All law wives are invited.

Glueck Club

Harbinger of Spring, an informal dance and party at Kendall House, will be held this Saturday evening, March 20, at 8 p.m. All members are cordially invited to attend. Setups will be provided.

Rugby

The Harvard Rugby Club will hold conditioning practices every Monday and Wednesday at 3:30 p.m. at Dillon Field House. Membership is open to men in the Law School. There will be outside games in April and May. No previous experience is necessary.

UNIVERSITY WORLD

United Nations Council of Harvard

Dr. Eelco N. Van Kleffens, the Dutch Ambassador, will deliver an address entitled *The Future Role of Western Europe* at the New Lecture Hall tomorrow night at 8:15 p.m. Thursday at 8:15 p.m., Lord Inverchapel, British Ambassador to the United States will speak. The public is invited.

Louis C. Elson Memorial Lectures

The Louis C. Elson Memorial Lectures will be given in Paine Hall at 8:15 p.m. tomorrow and Thursday by Howard Hanson, Director of the Eastman School of Music. Mr. Hanson's subject will be *The Material of Music*. The lectures will be free and open to the public.

Concert

A sonata recital will be given in Sanders Theatre this Saturday at 8:15 p.m., by Paul K. Doktor, viola, and Erich Itor Kahn, piano.

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\$5 CASE —(Continued)

and pain to the extent of ten dollars damages.

(Fourth Count) That the defendant is indebted to the plaintiff in the sum of five dollars for money had and received from the plaintiff on 13 February 1948.

The defendant demurs to the third count of the declaration on the ground that the matters contained therein are insufficient in law to enable the plaintiff to maintain his action; and to the fourth count on the ground that the plaintiff has not filed a bill of particulars as required by Gen. Laws, Mass. (Terc. Ed. 1932) c. 231, § 14. (The plaintiff has asked leave to amend the declaration to include the bill of particulars.)

In his answer (expressly reserving the demurrers) the defendant denies the allegations in the first and second counts, except he admits receiving the five dollars from the plaintiff, and affirmatively alleges that the defendant returned and repaid the five dollars to the plaintiff.

When the court meets it will consider the plaintiff's petition to have the cause transferred to the Superior Court and to claim trial by jury under the provisions of Mass. Gen. Laws, c. 231, § 103, et seq. If the plaintiff is successful, the Judge will then don the robes of a Superior Court Justice to hear the proceedings in that court; otherwise the cause will remain in the District Court.

Next will be the arguments on the demurrers. In this connection, plaintiff's counsel are expected to point out that the cause of action demurred to is supported by Prosser on Torts (1941 ed.).

The court will also hear defendant's motion that the plaintiff be ordered to furnish a responsible and sufficient indorser for costs in accordance with the provisions of Mass. Gen. Laws, c. 231, § 42. This motion is supported by defendant's affidavit that the plaintiff is not an inhabitant of Massachusetts, but is a resident and inhabitant of Kansas City, Missouri.

Since the above proceedings are expected to furnish a full evening's work for the court and legal education for the spectators, the trial itself will be held on a separate night from the hearing. Whether the trial will be before the court alone, or before a court and jury, depends on whether the plaintiff is successful in having the cause removed to the Superior Court. The plaintiff cannot get a jury trial in the District Court.

The imposing array of legal talent on the plaintiff's staff includes Sheldon Guren, 3L; John Casey, 3L; Saul G. Marias, 3L; Ed Matheny, 2L; George Solomon, 2L; Jerome Shestack, 2L; Edward B. Hanify, LL.B. '36 of Ropes, Gray, Best, Coolidge & Rugg of Boston; and Jerome Hyman, LL.B. '47, law clerk to Judge John C. Mahoney, CCA 1st.

Professor Prosser expects to handle his own case.

NEWS BRIEFS —(Cont.)

CHANCERY CLUB

The club held its annual formal banquet last Wednesday night at the Harvard Club. Guest speaker was Judge J. J. Kaplan, LL. B. '10. Among the other guests were faculty members Richard H. Field and Louis A. Toepfer, both members of the Chancery Club while students at the Law School.

CHAFEE —(Continued)

engaged in drafting the section on freedom of information and freedom of the press for the proposed International Bill of Rights which is being formulated under the direction of the Human Rights Commission. In order for the International Bill of Rights including this section to become law, it will have to be adopted according to treaty procedure which requires affirmative votes by two-thirds of the member nations, each separately passing on it. As a result of this requirement and the present state of world affairs, Professor Chafee does not anticipate the adoption of this world legislation in the foreseeable future.



ALUMNI —(Continued)

Harvard Law School Association would undertake a preliminary analysis of pending bills and report its findings to the State Bar Association. In this way, lawyers could be informed about proposed legislation which might vitally affect the interests of their clients, and an informed Bar Association could take steps to cure many of the existing defects.

"Even without an organized effort," Judge Emmert said, "many Association members have already given valuable assistance and service in legislative affairs." He mentioned the work of Mr.

Joseph Daniels '14 in connection with the adoption of Chapter 216 of the 1945 Acts which re-enacted the common law rule against perpetuities; he praised the efforts of Kurt F. Pantzer '17 to obtain appropriations for employing law secretaries to assist the judges in expediting their work.

In conclusion Judge Emmert stressed the double foundation of a Harvard Law School education which should be utilized by the local Association: "on the one hand there is legal scholarship and craftsmanship necessary to the practice of law; on the other, the philosophy of public service extending to great interest in public affairs and public law."

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